

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

1. The petitioner and his wife are both disabled and have income from Social Security and SSI benefits totaling \$898.28 per month. In May of 2000 they moved onto a seventy-four acre parcel of land which had been operated as a mobile home park. In June of 2000, they made the last mortgage payment on the land. They also have income from the rental of one lot of land which amounts to \$150.00 per month. They have been ordered by the town to stop renting lots and expect the last tenant to move by the end of October. After that, only the petitioners and their two grown children and their spouses are allowed to live on the land. They each live there now in three separate trailers. The children do not pay any rent to the parents nor

do they contribute to the water bill, which at this point is entirely in the parents' names. The children have their own electric meters but will not have their own water piping for a few months.

2. During the petitioner's Food Stamp review in mid-July of this year, the Department projected that the income listed in paragraph one would continue for the foreseeable future. The petitioner was allowed a \$30.00 deduction from the lot rent, a standardized deduction of \$134.00 and an excess medical expense deduction of \$74.00. Those deductions resulted in a countable income of \$809.28 per month. The petitioner did not receive any deductions for shelter because the Department determined that his total current shelter expenses are only \$263.00 per month and consist of a \$25.00 monthly tax payment and another \$238.00 in monthly utility charges (\$100.00-electricity, \$50.00-cooking and heating gas, \$50.00-phone, \$20.00 sewer, and \$18.00 for water).¹ Since the amount he spends on monthly shelter expenses (\$263.00) is less than 50% of his net income (\$809.28), the Department determined that the petitioner had no "excess" (anything over 50% of countable income) shelter expense to

¹ The Department actually ascribed to the petitioner's household the standard utility allowance of \$338.00 which, when added to the petitioner's monthly tax liability of \$25.00 amounted to \$368.00 per month, still under the 50% requirement. See P-2590.

deduct from his income. The result was a finding that the petitioner and his wife had a countable income of \$809.28. They were notified on August 3, 2000 that their Food Stamp benefits would go down from \$100.00 to \$10.00 per month for the new certification period beginning August 1, 2000.

3. The petitioner agrees with all of the amounts used for the non-shelter deductions. He believes, however, that he should receive an excess shelter deduction because he is paying on a delinquent water bill which he inherited from the prior owner of his property who ran it as a mobile home park. The total amount of the delinquent bill is \$2,500.00. The water company has asked him to pay \$200.00 per month but he can only pay \$100.00 which the company is accepting. The prior owner who incurred the bill has moved to Canada. The petitioners were unaware of this liability before they bought the property. If they do not pay the delinquent bill, their water could be turned off. There is currently no lien on the property in relation to the water bill although one could be placed on the property if the utility bill continues to remain unpaid.

ORDER

The decision of the Department to reduce the Food Stamps to \$10.00 per month is affirmed.

REASONS

A Food Stamp recipient is eligible for a "household shelter deduction" for the "[m]onthly shelter costs in excess of 50% of the household's income after all other deductions . . . have been allowed. F.S.M. 273.9(d)(5)(i). The regulation goes on to define shelter costs, in pertinent part, as follows:

Shelter costs shall include only the following:

A. Continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.

B. Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

VERMONT: Taxes, assessments and insurance are averaged over the full period for which they are incurred. Clients may request that they be averaged over the certification period in which the non-delinquent payment is due, or computed against the individual month in which the non-delinquent payment is due, providing such option does not result in any duplication of deductions. No deduction shall be allowed for delinquent payments, i.e., payment of taxes, assessments, etc., which were initially due prior to the current certification period.

C. The cost of heating and cooking fuel; cooling and electricity; water and sewerage; garbage and trash collection fees; the basic service fee for one telephone, including tax on the basic fee; and fees charged by the utility provider for initial installation of the utility. One-time deposits shall not be included as shelter costs.

. . .

F.S.M. 273.9(d)(5)(i)

The regulations above do not speak directly about the inclusion of delinquent utility payments in the shelter allowance, although they specifically forbid the inclusion of delinquent taxes and town assessments in shelter calculations. The Department has always interpreted these regulations as including only current expenses and not back debts. If back debts are included, it would give recipients an incentive not to pay current expenses and to pile the additional delinquent payments on as shelter expenses which could increase Food Stamp allotments.

The petitioner's situation is sympathetic since he did not personally incur the back utility expense.² However, even if the \$100.00 he pays towards the back bill each month were added to his utility total, making it \$338.00 per month, his shelter expenses (\$338.00 for utilities and \$25.00 for taxes) would still be under 50% of his net income and he would get no shelter deduction. Under the Department's regulations, a two-person household with \$809.28 in countable income is eligible for \$10.00 in Food Stamp benefits. F.S.M. 273.10(a), Procedures

² Certainly the petitioner would be wise to contact an attorney to see if he has any recourse regarding the payment of this back utility bill which was not only incurred by a prior owner in the operation of his business but also

2590D(8)³. As the Department's decision is in accord with its regulations, the Board is bound to affirm the decision. 3

V.S.A. § 3091(d), Fair Hearing Rule 17.

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should have been recorded and brought to the petitioner's attention if the debt was expected to run with the land.

³ Even if a \$200.00 payment on the delinquency (the amount originally requested by the utility company) were counted as a necessary current shelter expense, the excess shelter deduction of \$59.00 would only entitle the household to \$2.00 more per month in Food Stamp benefits. See P-2590D (8). The petitioner's reduction in Food Stamps from \$100.00 per month to \$10.00 per month is largely a function of his lack of a rent or mortgage payment and the additional income from renting the lot. The petitioner was advised that he should report the lack of lot income to the Department as soon as it occurs.